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**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

UNITED STATES OF AMERICA	:	Hon.
v.	:	Civil Action No. 23-
APPROXIMATELY \$1,362,727.64 FORMERLY ON DEPOSIT IN BUCKEYE STATE BANCSHARES, INC. ACCOUNT NO. 312026 HELD IN THE NAME OF JJF CONSTRUCTION LLC; and	:	VERIFIED COMPLAINT <u>FOR FORFEITURE IN REM</u>
	:	
APPROXIMATELY \$1,642,755.55 FORMERLY ON DEPOSIT IN F&M BANK AND TRUST COMPANY ACCOUNT NOS. 5106230, 200025521, AND 1005278 HELD IN THE NAME OF KENT D. WARNING DBA PAYOFF ACCOUNT SERVICE,	:	
	:	
Defendants <i>in rem.</i>	:	

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VERIFICATION OF SPECIAL AGENT MERT SAGLAM	

Plaintiff the United States of America, by its attorney, Philip R. Sellinger, United States Attorney for the District of New Jersey, for its verified complaint (the “Complaint”) alleges, upon information and belief, as follows:

I. NATURE OF THE ACTION

1. This action is brought by the United States of America seeking the forfeiture *in rem* of:

- (a) Approximately \$1,362,727.64 formerly on deposit in Buckeye State Bancshares, Inc. account no. 312026 held in the name of JJF Construction LLC; and
- (b) Approximately \$1,642,755.55 formerly on deposit in F&M Bank and Trust Company account nos. 5106230, 200025521, and 1005278 held in the name of Kent D. Warning DBA Payoff Account Service;

(hereinafter referred to collectively as the “Defendant Funds”).

2. The Defendant Funds are subject to forfeiture to the United States of America pursuant to 18 U.S.C. §§ 981(a)(1)(C) and 984, and 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c), which subject to civil and criminal forfeiture, respectively, all property, real or personal, that constitutes or is derived from proceeds traceable to wire fraud, in violation of 18 U.S.C. § 1343, which is an offense constituting specified unlawful activity, as defined in 18 U.S.C. § 1956(c)(7).

II. JURISDICTION AND VENUE

3. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1345 and 1355(a).

4. Venue is proper pursuant to 28 U.S.C. § 1335(b)(1)(A) because acts and omissions giving rise to the forfeiture occurred in the District of New Jersey.

III. THE DEFENDANT FUNDS

5. The Defendant Funds were seized pursuant to seizure warrants issued on August 2, 2023 by the Honorable Leda Dunn Wettre, United States Magistrate Judge for the District of New Jersey.

6. The Defendant Funds are being held in the CBP-Secret Service forfeiture suspense account held by the United States Treasury.

IV. FACTS

A. Business Email Compromise Schemes and Money Mules

7. A business email compromise scheme (“BEC”) is a scam that targets businesses, often those that work with foreign or domestic suppliers and/or businesses that regularly perform wire transfer payments. A BEC scheme is often carried out by compromising legitimate business email accounts through social engineering or computer intrusion techniques to conduct an unauthorized transfer of funds. The goal of most BECs, as with the one described herein, is to steal money through fraud and deceit.

8. A “money mule” is someone who transfers or moves illegally acquired money on behalf of someone else. Criminals recruit money mules to help launder proceeds derived from online scams or crimes like human trafficking and drug trafficking. Money mules add layers between the crime

and the perpetrators, making it more difficult for law enforcement to trace funds through the financial system. Money mules can be knowingly involved in the criminal activity or can be duped into letting others use their accounts or establish new accounts for nefarious purposes.

9. The Victim Company (the “Company”) is a multinational corporation whose U.S. headquarters is located in Newark, New Jersey.

10. On January 11, 2023, a Company employee in New Jersey received an email from accounting@emerysapps.com, which the employee believed to be the accounting department of a Company vendor in Kansas. This email contained ACH instructions for the payment of future invoices. The updated ACH information was for account number 0801997821, routing number 271070801, which was an account at Citibank (“Citi Account”). The Company employee updated the ACH instructions on or about January 18, 2023 and caused a payment of approximately \$8,711,830.91 to be sent to the Citi Account on February 27, 2023.

11. On March 21, 2023, the vendor notified the Company that it had not yet been paid for the contracted work. Upon review of the emails, the Company realized that it had been sent fraudulent instructions from an email account similar to the correct email address. The same day, the Company notified its bank, which is also Citibank. As a result, Citibank opened an internal investigation and, on April 5, 2023, froze the account.

12. On March 22, 2023, the Company filed a report on the FBI's Internet Crime Complaint Center ("IC3").¹

13. On March 29, 2023, I contacted the individuals at the Company and Citibank to investigate the IC3 report.

B. The Citibank Account

14. Citibank provided records to law enforcement in response to a request for information about the facts described in the IC3 report. The records showed that the holder of the Citi Account was "Payoff Account Service," 632 N 2450 Avenue, Ursa, Illinois 62376. The authorized signer was Kent D. Warning ("Warning").

15. Citibank also provided records of transactions that took place in the Citi Account prior to Citibank freezing the account. Among other things, the records showed that, of the approximately \$8,711,830.91 sent to the Citi Account:

- (a) Approximately \$170,000.64 still remained in the account;
- (b) Approximately \$83,404.44 was withdrawn via non-Citibank ATM cash withdrawals and debits described on statements I reviewed as "debit card purch[ases]" or "debit card"; and
- (c) Approximately \$8,458,425.83 was withdrawn via a series of ten checks made payable to and signed by Kent Warning, specifically:

¹ See <http://www.ic3.gov>.

- i. On March 2, 2023, a check for \$2,000,000 payable to Payoff Account Service, later posted at F&M Bank and Trust;
- ii. On March 3, 2023, a check for \$750,000 payable to the bank account of a law firm, later posted at Regions Bank;
- iii. On March 6, 2023, a check for approximately \$1,229,671.55 payable to B & D Industries, later posted at PNC Bank;
- iv. On March 7, 2023, a check for approximately \$1,362,727.64 payable to JJF Construction LLC and posted at Buckeye State Bancshares, Inc. (“Buckeye State Bank”);
- v. On March 14, 2023, a check for approximately \$539,655.23 payable to Browns Metals Company LLC, later posted at PNC Bank;
- vi. On March 14, 2023, a check for approximately \$845,021 payable to Cachego LLC, later posted at Cyprus Federal Credit Union;
- vii. On March 14, 2023, a check for approximately \$526,500.21 payable to Okapi Educational Publishing Inc., later posted at Truist Bank;
- viii. On March 20, 2023, a check for \$400,000 payable to Edgar Rager Construction LLC, later posted at Fifth Third Bank;
- ix. On March 20, 2023, a check for approximately \$199,000 payable to Ronald Chandler, later posted at PNC Bank; and
- x. On March 21, 2023, a check for approximately \$605,850.20 payable to Global Love LLC, later posted at JPMorgan Chase.

16. Citi was able to recover approximately \$3,144,177.62 by freezing the Citi Account and working through its banking partnerships.

17. Of the remaining approximately \$5,484,248.85 that was removed from the Citi Account and not recovered by Citibank, investigators have been able to locate (i) the approximately \$1,362,727.64 deposited in an account at Buckeye State Bank (see ¶ 15(c)(iv) above); and (ii) approximately \$1,642,755.50 of the \$2,000,000 deposited in accounts at F&M Bank (see ¶ 15(c)(i) above).

C. The Buckeye State Bank Account

18. As indicated above, on March 7, 2023, a check for approximately \$1,362,727.64 signed by Warning and payable to JJF Construction LLC was posted at Buckeye State Bank. The funds were deposited in account number 312026 held in the name of “JJF Construction LLC.” The authorized signer on the account was “John F. Jouissance.”

19. Jouissance, who had no prior banking relationship with Buckeye State Bank, opened the JJF Construction LLC account on March 3, 2023 and deposited the check. Several days, later, Jouissance went back to the same branch and wanted the bank to issue several cashier’s checks from the recently deposited funds. Instead, the bank froze the funds and opened an internal investigation.

20. During its investigation, the bank contacted the account holder and inquired about the source of the funds. According to bank records, Jouissance was unclear about the source of the funds and only provided the name of Kent Warning.

21. Following its investigation, the bank closed the JJF Construction LLC account and transferred the funds to a safekeeping account. This was confirmed via telephonic interview with Buckeye State Bank investigators on April 4, 2023.

D. The F&M Accounts

22. In February 2023, Kent Warning opened three accounts at an F&M Bank and Trust ("F&M") branch located at 4801 McMasters Avenue in Hannibal, Missouri (the "F&M Accounts"). All of the F&M Accounts were opened in the name of Kent D. Warning DBA Payoff Account Services, and Warning was the authorized signer. Specifically:

- (a) On February 6, 2023, Warning opened small business account no. 1005278 in the name of Kent D Warning DBA Payoff Account Service ("**F&M 5278**") with a \$300 cash deposit.
- (b) On February 6, 2023, Warning opened statement savings account no. 200025521 ("**F&M 5521**") with a \$300 cash deposit.
- (c) On or about February 17, 2023, Warning returned to the same branch and opened consumer checking account no. 5106230 ("**F&M 6230**") with a \$150 cash deposit.

23. Warning set up all of the F&M Accounts with online banking capabilities.

24. On or about March 1, 2023, Warning visited the same F&M branch and deposited a check drawn on the Citi Account for \$2,000,000 in F&M 5278. The check was payable to Payoff Account Service and was signed and endorsed by Warning. F&M put a nine-day hold on this deposit.

25. Following the deposit of the \$2,000,000 check, an F&M officer called Warning in an effort to learn the origin of the deposited funds and what Warning planned to do with the accounts. Warning said he was in copper sales and would probably be bringing in more deposits.

26. The nine-day hold expired on or about March 14, 2023.

27. The following wire transfers totaling approximately \$1,966,100 were made or attempted to made from F&M 5278:

- (a) On or about March 14, 2023, Warning went into the branch and requested a wire transfer for approximately \$415,050 to Gemini Trust Company, LLC in New York, New York via JPMorgan Chase.
- (b) On or about March 15, 2023, Warning went back to the branch and requested a wire transfer for \$470,000 to CF Preferred LLC via ByLine Bank in Chicago, Illinois. This wire was later sent back at the request of Kent Warning.
- (c) On or about March 15, 2023, during the same visit to the branch, Warning requested a wire transfer for approximately \$520,250 to Cachego LLC via Mountain America Credit Union in Murray, Utah. The credit union returned most of these funds (\$517,270) to F&M.
- (d) On or about March 17, 2023, Warning went back to the branch and requested a wire transfer for approximately \$560,800 to a Linda C. Pearson in Hopkins, Minnesota via Citizens Bank in Minneapolis. The same day, citing potential fraud, Citizens Bank reversed the wire transfer.

28. Thus, of the outgoing wire transfers from the three F&M Accounts, a total of approximately \$1,548,010 was returned to F&M.

29. In addition, between on or about March 1, 2023 and on or about April 5, 2023, the F&M Accounts received a total of approximately \$900 in deposits and approximately \$71,801.50 in transfers from Coinbase. More

funds were removed from the F&M Accounts during February and March, including approximately \$12,000 in checks, several thousand dollars in transfers to Cash App,² and fees.

30. On April 5, 2023, when F&M froze the accounts, a total of approximately \$1,642,755.50 remained in the three F&M Accounts.

E. Interview of Kent Warning

31. On or about April 5, 2023, law enforcement interviewed Warning at his residence located at 632 N. 2450th Avenue, Ursa, Illinois. Warning stated that he was in contact via phone and computer with a woman known to him as “Jen.” He stated that he met “Jen” on Twitter and communicates with her primarily via WhatsApp. Warning stated that Jen would have him open up accounts in his own name at various banks and other financial institutions for the purpose of transferring money. Warning stated that he did not receive regular payment for his services and that he was only doing it at Jen’s request.

32. Warning said that Jen told him to open the Citi Account in his own name. He stated that none of the money deposited in the F&M Account belonged to him and that he doesn’t know where the money goes or why it’s coming in other than what Jen tells him. He also stated that he wrote all the checks on Jen’s instructions. Warning stated in the interview that the name of his purported business, Payoff Account Services, was Jen’s idea.

² Cash App is a mobile payment service similar to Venmo that allows users to transfer money to one another using a mobile phone app.

33. On or about April 18, 2023, Warning gave law enforcement consent to make a forensic image of his phone. Among other things, law enforcement discovered the chat logs between Jen and Warning. The chat logs show that Jen had Warning log into the Citi Account and F&M accounts via mobile banking and provide her with screenshots of the account balances. The chat logs also show Jen telling Warning where to send money and in what amounts. Jen gave Warning detailed instructions on writing the \$2,000,000 check to F&M Bank, and also directed him to call the bank to tell them that he was depositing the money.

34. The chat logs also showed Jen telling Warning to write the check for approximately \$1,362,727.64 to JJF Construction at Buckeye State Bank. Jen told Warning to mail the check to an individual in Columbus, Ohio and provided the individual's address. Warning uploaded pictures when he finished writing each check to show Jen that he had completed her request.

35. During the interview, Warning also stated that Jen told him to open accounts at various cryptocurrency exchanges and would give him instructions on where and how to move the money and the cryptocurrency, including using cryptocurrency ATMs to send money to wallet addresses. The chatlogs substantially corroborated Warning's statements about cryptocurrency.

V. CLAIMS FOR FORFEITURE

36. The allegations contained in paragraphs 1 through 35 of this Complaint are incorporated herein and made part hereof.

37. Based on the foregoing, there is probable cause to believe that the Subject Property is property that constitutes or is derived from proceeds traceable to wire fraud, in violation of 18 U.S.C. § 1343, and is therefore forfeitable to the United States of America pursuant to 18 U.S.C. §§ 981(a)(1)(C) and 984.

38. Based on the foregoing, there is also probable cause to believe that the Subject Property is property that constitutes or is derived from proceeds traceable to wire fraud, in violation of 18 U.S.C. § 1343, and is therefore forfeitable to the United States of America pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c).

39. Pursuant to 18 U.S.C. § 984, the United States is not required to trace directly forfeitable property if (i) the property is fungible property found in the same place or account as the directly forfeitable property and (ii) the action begins within a year. Put another way, Section 984 provides that in any forfeiture action *in rem* in which the subject property is funds deposited in a financial institution account, it shall not be a defense that the property involved in such offense has been removed and replaced with identical property, so long as the action to forfeit the property is commenced within one year from the date of the offense.

REQUEST FOR RELIEF

WHEREFORE, the United States of America requests that the Clerk of the Court issue a warrant for the arrest and seizure of the Defendant Funds pursuant to Rule G(3)(b)(i) of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions of the Federal Rules of Civil Procedure, which the plaintiff will execute upon the Defendant Funds pursuant to 28 U.S.C. § 1335(d) and Supplemental Rule G(3)(c); that notice of this action be given to all persons who reasonably appear to be potential claimants to the Defendant Funds; that the Defendant Funds be forfeited and condemned to the United States of America; that the plaintiff be awarded its costs and disbursements in this action; and that the Court grant such other and further relief it deems just and proper.

Dated: Newark, New Jersey
November 13, 2023

PHILIP R. SELLINGER
United States Attorney

Barbara A. Ward
By: BARBARA A. WARD
Assistant United States Attorney

VERIFICATION

I, Mert Saglam, hereby verify and declare under penalty of perjury that I am a Special Agent with the United States Secret Service; that I have read the foregoing Verified Complaint for Forfeiture *in Rem* and know the contents thereof; and that the matters contained in the Verified Complaint are true to the best of my knowledge, information, and belief.

The sources of my knowledge and the grounds of my belief include the official files and records of the United States; information obtained directly by me; and information supplied to me from and by other law enforcement officials, during an investigation of alleged violations of Title 18, United States Code.

I hereby verify and declare under penalty of perjury that the foregoing is true and correct, pursuant to 28 U.S.C. § 1746.

Dated this 13th day of November, 2023.

 MSAGLAM
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MSAGLAM
Date: 2023.11.13 11:24:57
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Mert Saglam, Special Agent
United States Secret Service